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JP

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA A. WILHELM,
Plaintiff

v.

COMMONWEALTH OF PA.;
PENNSYLVANIA STATE POLICE;
COLONEL PAUL J. EVANKO,
COMMISSIONER; LIEUTENANT
COLONEL THOMAS K. COURY; and
CAPTAIN MICHAEL. D. SIMMERS,
Defendants

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NO. 1:CV-01-1057

(JUDGE RAMBO)

FILED
HARRISBURG, PA
NOV 08 2002
MARY E. D'AMICO, CLERK

**DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION
TO EXPEDITE PLAINTIFFS' RESPONSES TO DISCOVERY**

INTRODUCTION

This action challenges plaintiff's dismissal from employment with the Pennsylvania State Police as retaliatory in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*

A jury entered a verdict in favor of plaintiff on September 11, 2002 and awarded her \$250,000 in backpay and compensatory damages. The Court then scheduled a hearing on equitable relief for October 23, 2002.

In the midst of the hearing on equitable relief the Court recessed and then continued the hearing. The hearing was delayed because plaintiff failed to disclose her expert and damage calculations in a timely manner.

In addition to continuing the hearing until January 22, the court reopened discovery, ordered plaintiff to serve an expert report by November 4, permitted defendants to serve an expert report by December 6, and permitted defendants to petition for attorneys fees in connection with the October 23 hearing. Under the current schedule, discovery ends on December 30, 2002.

On November 5, 2002, defendants served interrogatories and a request for production of documents. The discovery request includes 7 interrogatories and 3 requests for documents.

On the same day the discovery was served. Defendants moved the Court to order plaintiff to provide her responses by November 25 rather by December 9, when they would otherwise be due under the rules.

Defendants submit this memorandum in support of their motion for expedited responses.

ARGUMENT

THE COURT SHOULD REQUIRE PLAINTIFF TO SERVE HER RESPONSES TO DISCOVERY BY NOVEMBER 25, BECAUSE THE DISCOVERY IS NOT ONEROUS AND THE RESPONSES MAY BE HELPFUL TO DEFENDANTS' EXPERT.

Under the Rules a party must respond to discovery requests within 30 days unless the Court directs otherwise. Fed.R.Civ.P. 33(b)(3), 34(b). In addition,

if the discovery is served by mail the party may add 3 days to the response time. Fed.R.Civ.P. 6(e).

In this case, defendants served 7 interrogatories and 3 requests for documents on plaintiff on November 5. Service was made by first class mail. Under the current schedule, defendants are required to file their expert report on December 6. Under the rules, plaintiff's response to the discovery is not due until December 9, three days after defendants' expert report is due.


Defendants believe the responses to discovery will be helpful to their expert. If plaintiff responds by November 25, defendants' expert will have the opportunity to review the responses before completing his report which is due on December 6. Moreover, the requests are not excessive or burdensome. Therefore, plaintiff should be able to respond by November 25.

CONCLUSION

For all of the preceding reasons, this Court should require plaintiff to respond to defendants' discovery requests by November 25, 2002.

Respectfully submitted,

**D. MICHAEL FISHER
Attorney General**

BY: 
SUSAN J. FORNEY
Chief Deputy Attorney General
I.D. No. 27744

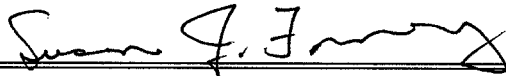
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Harrisburg, PA 17120
(717) 787-9831- Direct
(717) 772-4526 - Fax

DATED: November 8, 2002

CERTIFICATE OF SERVICE

I, **SUSAN J. FORNEY**, Chief Deputy Attorney General for the Commonwealth of Pennsylvania, hereby certify that on November 8, 2002, I caused to be served a copy of the foregoing document entitled **Defendants' Memorandum in Support of Motion to Expedite Plaintiff's Responses to Discovery**, by depositing same in the United States Mail, first class, postage prepaid, in Harrisburg, Pennsylvania, upon the following:

**Nathan C. Pringle, Jr., Esquire
3601 North Progress Avenue, Suite 200
Harrisburg, PA 17110**



SUSAN J. FORNEY
Chief Deputy Attorney General
I.D. No. 27744